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**Project Report**

# *BRITISH COLUMBIA FINANCIAL REVIEW: THE ISSUE OF LURKING EXPENDITURES*

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# Executive Summary—Lurking Expenditures

This paper identifies and evaluates a category of potential expenditures which, taken together, could have a large impact on the government's ability to eliminate the deficit.

A number of these expenditures arise from previous commitments and policy decisions and from social trends. These are called "lurking expenditures" to capture the notion that, by a change of policy or other mitigating action, potential costs can be reduced or avoided. Given the deficit reduction objective, greater importance should be given to finding and minimizing these.

Examples of larger lurking expenditures include:

- The Vancouver Island Gas Pipeline—under the terms of an agreement between the federal and provincial governments and the Pacific Coast Energy Corporation, the Province is obliged to contribute an uncapped amount in loans to the company to stabilize the consumer price of natural gas, by covering any project operating deficits.

  The potential liability of the province under this provision has been increased by a construction cost overrun of approximately $105 million, with the prospect of further costs overruns.

  The Rate Stabilization liability, originally estimated at $36 million is now estimated at $186 million and could be as high as $672 million.

- The deferral of regular preventive maintenance by government departments and Crown corporations—about $150 million for B.C. Hydro alone.

- Environmental cleanup costs for contaminated sites estimated at hundreds of millions of dollars.

- The potential costs of negotiating and resolving aboriginal land claims.

- A number of open-ended programs initiated by the previous government, including Freedom to Move and implementation of the Royal Commission on Education recommendations.

The report recommends that:

- Each ministry and government be requested to identify the trends and events that could have significant impact on the budget of the province in the next four to five years.

- Ministries and agencies be asked to develop strategies and options to avoid or mitigate these lurking expenditures.

- In some cases, major lurking expenditures and new exposures could be anticipated by such strategies as statutory provisions limiting provincial liabilities. By acting now, many of these can be avoided.

# The Issue of Lurking Expenditures

With over 30,000 employees and expenditures of $16 billion, the provincial government is by far the largest enterprise in British Columbia. Fiscal management of the province requires forecasting, reporting on financial results and evaluating the delivery programs in the same fashion as required in any large enterprise. Because of the government's size, forecasting is a critical function. The ship of state has great inertia and responds slowly to the decisions to change direction.

This year, the process supporting the preparation of the budget estimates included requests for forecasts of the financial results looking ahead for the next two years. This information will be helpful in identifying the fiscal course of government in the near future. But to navigate successfully, the government also needs indications of growing problems and new cost drivers that will affect the budget three or four years in the future. We have called these factors "lurking expenditures". In the course of our review, we became aware of more than 75 such factors. These are to be distinguished from the normal "cost-drivers" such as salary settlements and increased program demands that are normally taken into account in budget planning.

Some lurking expenditures may affect operations in the next year. Others could develop and have an impact in three or four years. Others may have no effect. This paper describes these lurking expenditures, lists many that we saw in our work and suggests some steps to ensure that the proposed central planning group and management are aware of their existence. It should not be concluded from the items listed that the government is necessarily under any obligation to ensure all of these circumstances are dealt with. Moreover, some of the anticipated events may not come to pass.

## A. Lurking expenditures—a definition

In our review of various ministries and other entities, we discovered a variety of circumstances for which:

- Money will likely be required over the next few years.
- The existing linkage of this circumstance with the provincial government may create pressure for government expenditures.
- In some cases the potential financial impact has not been estimated.

We have used the term *lurking expenditures* to describe these circumstances. They represent latent costs which could escape the government's attention until such time as they are unavoidable. By developing effective strategies to deal with these circumstances as early as possible, the government may be able to avoid or minimize their cost impact. Often, no strategy appears to be in place to avoid or reduce the government's potential exposure.

We have not considered the legal implications of these potential circumstances since we are neither qualified nor in a position to anticipate the legal outcomes.

## B. Major findings

The lurking expenditures which we detected in our review varied considerably in size. We believe, however, that all merit attention. Large individual lurking expenditures pose an obvious and serious concern. However, the cumulative effect of smaller expenditures can also become significant when considered in terms of the government's objective of eliminating the budget deficit.

Examples of lurking expenditures are outlined in the following pages. We have grouped these into seven categories which reflect the underlying cause of the need to spend money:

- Aboriginal land claims.
- Environmental costs and concerns.
- Changing public expectations and social trends.
- Announced programs requiring funding.
- Changes affecting existing programs.
- Past deferrals of maintenance expenditures.
- Contingent liabilities and commitments .

When possible, we have included in the description the potential financial impact of these examples.

### 1. Aboriginal Land Claims

Aboriginal land claims and potential self-government for aboriginal peoples constitute a major lurking expenditure for the government, and one which is challenging to quantify. The potential for increased expenditures comes from several sources:

- The costs of negotiating and associated data acquisition being budgeted by the Ministry of Aboriginal Affairs for 1992/93 and 1993/94 may not be adequate if negotiations proceed as planned.

- At this time the cash costs of settling comprehensive land claims are very difficult to predict, but they could be very substantial. The substantive cost impact of the land settlement is believed unlikely to arise through 1993/94.

- The outcome of comprehensive land claim negotiations may include some shift of government responsibilities from federal, provincial and local governments to aboriginal governments. Such a shift may have implications for resource management, transfer payments, taxation and third party interests, with consequential effects on government revenues and on the cost of services delivered by government. Examples include the following:

    - The Ministry of Municipal Affairs highlights possible greater demands for local government support services, administrative support services, access to revenue sharing, etc. The Ministry also raises the issue of the impact on existing local governments resulting from the transfer of taxing powers.

    - The Ministry of Education raises the issue of possible provisions in the land claim settlements for substantial service and curriculum improvements in native education. These provisions may mean increased expenditures and transfer payments to aboriginal governments/school boards.

    - The Ministry of Social Services notes that negotiations around the issue of aboriginal self-government may result in an increasing role for aboriginal communities in the administration of their own child welfare systems. This change, along with the federal government's withdrawal from aspects of social services to aboriginal peoples, is believed likely to increase financial pressures on the Ministry to provide for social services.

    - The Ministry of Forests indicates that the settlement of aboriginal land claims may result in a reduction in annual allowable cut to the provincial government and the corresponding reduction in revenues and potential compensation payments. Further, the settlements could result in the loss, for other government agencies, of other taxes payable, such as property taxes and various indirect taxes payable by the operators.

    - The Ministry of Energy, Mines and Petroleum Resources notes that compensation for any resource tenures affected by aboriginal land claims may be a cost consideration.

- B.C. Hydro identifies the implications of aboriginal land claims on transmission rights and property taxes. At times in the past, Hydro did not always obtain rights when transmission lines were constructed across aboriginal lands. No estimate is available on the likely cost now to settle with the various bands and secure proper transmission and occupancy rights.

  In addition, Hydro has received some bills from bands for property taxes on its facilities. Some estimates indicate that these taxes could amount to an additional property tax cost of $3-$5 million annually. Although a band's ability to levy such taxes may be questioned, we understand that both these matters are currently under discussion with affected Indian bands.

- The Ministry of Environment, Lands and Parks notes that government's fiduciary obligation to aboriginal peoples may require that, when wildlife resources are scarce, aboriginals be given priority for sustenance resources. The result could be a loss of fishing and hunting revenues from non-aboriginals.

## 2. Environmental costs and concerns

The issue of environmental costs is treated more completely in a separate issue report. Environmental issues can create moral and political, if not legal, obligations for the government—and the cost ramifications can be substantial. Selected examples of lurking expenditures related to the environment are outlined below.

### a) Clean-up of contaminated lands

The Ministry of Environment, Lands and Parks has a potential future liability for the clean-up of contaminated lands that could be very significant. While the parties responsible for contamination at certain sites will be required to provide clean-up costs, the Ministry will be responsible for many additional "orphan" sites.

Costs can vary widely, depending on the clean-up technology used, the extent of toxicity of contamination and the future land use of the site. As an illustration, the costs for cleaning up the Expo lands alone could cost between $50 and $100 million. The Ministry has already spent about $17.5 million and has budgeted to spend $8 million in 1992/93 at this site.

### b) Clean-up of abandoned mine sites and wells

In 1991, the Ministry of Energy, Mines and Petroleum Resources estimated, based on experience in Alberta, that the potential future liability for abandoned wells could be $15 million over 30 years.

Several mine sites suffer from significant toxic drainage problems which likely exceed the resources of the owner to rectify. Estimates of the costs to rectify the problems are not currently available. Although the Province holds security for reclamation costs for mines, the amounts deposited are small in relation to the potential costs.

In 1991/92, the Ministry received only partial funding for programs to address clean-up of abandoned mine sites.

### c) Hazardous waste management—Public expectations

Established in 1990, the Hazardous Waste Management Corporation has a mandate to develop, implement and maintain a comprehensive hazardous waste management system in the province. The public has high expectations regarding the management of household hazardous wastes. The funds needed to provide this service are significant. Municipalities do not have the funds, and at its current annual budget levels ($4 million), the corporation will be unable to meet public expectations.

The management of household hazardous wastes is an area of significant lurking costs. For example, the corporation currently does not advertise its eight household hazardous waste depots. If it did so, it would not have the necessary funds to pay for the proper management and disposal of the materials received. It therefore lacks the funding to fulfil its mandate. To provide a comprehensive household hazardous waste management system, the corporation would require an estimated additional $10 million annually.

The experiences of other provinces point to the potential costs of the public participation process required to reach a consensus on the siting of hazardous waste collection, storage, treatment and disposal facilities. The hazardous waste management corporations in Alberta, Manitoba and Ontario required significant budget increases subsequent to conducting their public participation programs. As an example of how public participation can drive costs upwards, Ontario has spent more than $100 million to design and site its facility and has not yet been successful.

### d) B.C. Hydro—Environmental premiums

In 1990, the province adopted the Environmental Premium Policy, providing a price premium for electricity purchased from private power projects that would eliminate persistent site-specific pollution problems. B.C. Hydro made a 25 year contract with N.W. Energy for power from a woodwaste fired thermal electric generation facility. The price premium is paid for by reductions in the dividend to the province of 15 per cent of B.C. Hydro's avoided costs or costs it would have had to incur to product the electricity itself. The present value of this commitment is approximately $26 million over 25 years. This program has been superseded by the Environmental

Credit Policy, which shifts the costs of the premiums from the taxpayers to the hydro ratepayers. The current policy is under review.

**e) Environmental research**

The Ministry of Energy, Mines and Petroleum Resources deferred for lack of funding energy initiatives such as energy conservation development programs to identify ways to reduce consumption and promote alternative transportation fuels. Similarly, projects relating to research and development in mitigating environmental damage have not been funded.

## 3. Changing public expectations and social trends

British Columbians, like all Canadians, have grown to expect the government of the province to provide an extensive safety net as well as a wide array of medical and social support services. These expectations continue to rise and appear in all the service ministries as a cause of additional services and related costs.

Several recent studies have questioned the belief that the only way to achieve higher levels of service is to increase resources and the related costs. Those solutions relate to better consumer education, preventive health education and new ways of thinking about education itself. Recently the book by Dr. Peter Coleman, *Struggling to be 'Good Enough': Administrative Practices and School District Ethos*, has caught attention by following this theme.

Assessing the possibilities of investments in better and less expensive delivery techniques and estimating their potential impact on future costs of service would be a practical approach to quantifying this significant lurking cost driver.

**a) Level of demand for child day care**

The Ministry of Social Services has held responsibility for social services in key areas such as child day care and child, family and senior citizens services. Expenditures on day care appear not to have kept pace with the increasing demand for services. The 1991/92 budget of $71.7 million will reach $73.7 million, and could increase by as much as 25 per cent in 1992/93. The formation of the Ministry of Women's Equality as a separate ministry may focus public expectations and increase the probability that affordable day care will be seen as a higher priority. The federal government's apparent decision to abandon a national day care program may also shift greater demand to the province. Increased tax credits could increase demand for day care, without necessarily increasing its availability by an equivalent amount.

**b) B.C. Hydro—Underground equipment**

More requests are being made for existing facilities to be moved out of sight, below surface. There is also concern about EMF (electromagnetic fields) and

their possible link to cancer. Requests to move equipment underground, if widely accommodated, would add substantially to the cost base for rate setting purposes. Hydro estimates that it would cost $8 billion to move underground all distribution and transmission lines in B.C.

### c) "Freedom to Move" plan

As a result of the 'Freedom to Move' plan, public expectation for new or improved transportation facilities was raised considerably. Total capital expenditures were originally estimated at over $9.3 billion over a ten year period for highways alone (excluding public transit and ferries). A number of projects were deleted in the presentation to Cabinet at the time. The estimate communicated to Cabinet was therefore reduced to $6 billion.

A former government announced a program of $3.5 billion, which includes the extension of the SkyTrain, construction of the Island Highway, expansion of ferry terminals and construction of new ferries over a five year period ending in 1995, and Treasury Board had issued an approval in principle. The Ministry of Transportation and Highways estimated the cost for the announced projects to be closer to $4.2 billion (without inflation). To keep within the expected allocation of $3.5 billion for all modes, certain projects were deferred. Further projects were deferred when the actual funding for the current fiscal year was lower by $147 million than the budget contemplated by the previous Cabinet.

Although new construction and rehabilitation of the existing transportation system is discretionary, an insufficient, defective or scaled-down network can impair the effectiveness of transportation

### d) Lawsuits against the Crown

Finally, the government faces potential expenditures in resolving outstanding lawsuits. With hundreds of claims filed against the government, the potential liabilities are extremely high. With the exception of one or two specific payouts, the Crown Proceeding Act has historically paid an average of $1-$2 million annually. However, the social trend of increasing willingness to litigate and recent court decisions could raise this average.

## 4. Announced programs requiring funding

### a) Law and order initiative

The Law and Order Initiative was a program developed under the previous government designed to improve and enhance law enforcement and crime prevention in the community. A portion of this initiative ($1.3 million) is unfunded in that it is not reflected in the current estimates. No provision has been made for sustaining the funding necessary to maintain these services.

### b) Public referenda

In the last election, the public voted in favour of having the right of recall and of having a say in the determination of major issues. This public input would be in the form of referenda. During the election, this government indicated that it would follow the results of the plebiscite. To date, no commitment has been made to follow through with this initiative. Should referenda be held, the costs associated with each one are approximately $11 million, or the cost of a general election.

### c) Freedom of information legislation

The new Freedom of Information legislation will result in overall costs to government of $5-$10 million annually for ministries and agencies covered by the legislation. Approximately $1 million will be incurred within the Ministry of Government Services for the Freedom of Information Policy and Coordination Branch. Over the first two years, costs must be incurred to create records management systems to permit the quick recovery of records. Thereafter the major cost will be incurred in accessing records and editing them. The average costs in producing a record are estimated at $2,000, in line with costs in other jurisdictions. Total costs will be a function of the number of requests made.

### d) Royal Commission on Education

The Royal Commission on Education made a number of recommendations. The Ministry of Education allocated $186 million in the 1991/92 estimates for these items, but this amount represents only a small fraction of the full cost of implementing the recommendations. In the last months of the previous government, the Ministry scrapped the "dual-entry" program for pre-schoolers (the Commission favoured entry based on aptitude rather than chronological age) and delayed for one year the implementation plan for a learner-focused school system espoused by the Royal Commission.

### e) Sterile insect release program

Last year, a $3.8 million program was announced to assist the B.C. tree fruits industry in controlling pests through release of sterile insects. This program was to be coordinated with authorities of the Okanagan Valley Tree Fruit Authority. These funds have not been budgeted in the 1992/93 or 1993/93 projections. As of January 1992, it was believed that this expenditure would be included in the $15 million in support already pledged to the Okanagan tree fruit industry in early 1992.

## 5. Changes affecting existing programs

### a) Commonwealth Games 1994

At present the Province has committed to fund $36 million in support of the Commonwealth Games. All provincial funding will be derived from the Lottery Fund, and will be administered by the Ministry of Municipal Affairs, Recreation and Housing. The best current understanding of the affairs of the Commonwealth Games Society is that revenues from all sources may fall short of expenditures by some $38-$40 million. The potential cost to the Province could be substantial. This cost would be reduced if the federal government were to pick up all or part of the shortfall as well as contributing the service of the CBC.

In addition, the Ministry of Tourism and Ministry Responsible for Culture anticipates pressures for provincial funding of related activities during the 1994 Commonwealth Games at a potential cost of $1.5 million to $3 million.

### b) St. Ann's Academy

St. Ann's Academy is a provincial Heritage site falling within the sphere of the Provincial Capital Commission. St. Ann's was to be developed as a tourist attraction by a private developer. The developer commenced work but encountered financing trouble and defaulted on the agreement to lease with the PCC. The PCC is potentially liable for unpaid bills of up to $500,000.

The larger issue, however, is the future of the Academy. The building has been condemned by the Fire Marshall and continues to deteriorate. Estimated costs to restore/rehabilitate the site to satisfactory standards are approximately $15 million. The PCC does not have the funds for such a restoration, but expects it may be required to deal with St. Ann's Academy. The $15 million restoration represent a lurking expenditure for the government which may require resolution over the next two years.

### c) Criminal Injuries Compensation Board

Details of this issue are set out in Appendix A.

The current legislative, practice and policy framework for the Criminal Injuries Program provides program boundaries that are somewhat indistinct. Increasing social challenges such as poverty, unemployment and growing awareness of sex crimes, especially involving children, will continue to increase both the complexity and scope of claims and the demand for and the cost of this program. Factors contributing to lurking expenditures within this program include:

- Both the volume and average claim payout have increased dramatically in recent years. Claims volume has increased by 24 per cent annually in the past three years. Awards paid in 1990 totalled over $11 million, compared with $8 million in 1989 and an average of $232,000 from 1972-88. Twenty percent of the 1990 awards were for periodic payments—ongoing payments of awards granted in prior years that represent a future and growing commitment for upcoming years.

- The 1990 change in the Criminals Injuries Compensation Act doubled the payment ceiling and will likely contribute to a 50 per cent or more increase in program costs.

- A strong movement, particularly among advocacy groups, is pressing for program retroactivity to pre-1972. This retroactivity would have significant cost implications.

- A number of hallmark legal decisions which are pending could substantially affect the dimensions of the program. In particular, the potential categorization of the conscious transmission of the HIV virus as an "assault" may serve to further complicate and expand the scope of the program.

**d) Ministry of Labour and Consumer Affairs—Backlog**

The Ministry has serious backlogs in two areas—appeals against Workers' Compensation Board decisions and human rights investigations by the Employment Standards Branch. Both areas have backlogs of approximately one year. In addition, service levels appear to be unacceptable in other areas. The Ministry estimates that net expenditures of $7.5 million would be required to eliminate the backlogs and service deficiencies.

**e) Legal Aid costs**

Legal Aid has become the proverbial thorn in the side of the Ministry of Attorney General. Costs have increased, the demand for service has increased and the federal government is providing a diminishing portion of operating expenses.

The Legal Services Society was formed in the late 1970s with a statutory mandate to deliver legal services to those that qualify. It is not an agent of government and is free to establish its own priorities, including that of legal education. The Society has a 14 member Board with 7 appointees each from the Ministry and the Law Society. This Board sets the tariff for those lawyers in the private bar who perform eligible legal aid work.

In 1984, a task force chaired by Ted Hughes determined that a lawyer working under the legal aid system should be paid 75 per cent of the fee that a lawyer would charge a client of modest means. This has precipitated a showdown with the government, which has been unable to keep pace with these rates. It would require the infusion of an additional $40 million to the system. In 1991, the legal aid lawyers began a steady withdrawal of services over the fee structure. This resulted in an increase in the tariff by 100 per cent. The Law Foundation provided a one time grant of $6 million with the Ministry picking up the remaining $6 million. On an ongoing basis, however, the Ministry must absorb all of the additional costs.

One of the conditions of approval of the funding by Treasury Board was that the Ministry examine alternative methods of service delivery. A recent report has concluded that an in-house public defender system is the most feasible alternative. The Ministry has approval to enter into discussions with the Legal Services Society to determine how far the Society is prepared to go in pursuing this model in 1992-93. Current estimates suggest that if 95 per cent of the Legal Aid work is performed by staff lawyers, the costs would be 50 per cent less than the costs of the recently doubled tariff system.

Alternatively, the government could consider options to obtain additional financial support from the legal community.

### f) Correctional facilities capacity

Correctional facilities in the province are operating at virtual capacity—daily counts for adult beds between November 27 and December 12, 1991 showed usage of 97.2 per cent to 107.7 per cent of capacity. Currently the population in the facilities is higher than expected and the mix of inmates requires a more secure environment. Length of stay has been increasing. The Ministry of the Attorney General expects that, as the general population ages, the institution population will decrease. However, given the recent trend to increased usage, the ability of the Province to house more inmates is very limited. Any increase in correctional institution population could significantly driveup the Ministry's capital and operating costs in the coming years.

### g) Municipal sewage & water infrastructure

The Ministry of Municipal Affairs, through the Revenue Sharing Fund, provides funds to local governments for debt charges relating to sewage and water infrastructure development. A major concern is that, as municipal infrastructures age, demand for these capital grants will grow.

The expenditure of these grants lags behind the approvals for them to be paid. The Ministry estimates that as at March 31, 1991, the total commitments to unpaid grants was over $100 million, and approximately $114 million was available in the operating portion of the fund. Treasury Board estimates that,

in the next few years, the Revenue Sharing Fund could go into an annual deficit position if the expected number of major water and sewer projects come to pass.

**h) Relocation of Abbotsford facilities**

In early 1991, Cabinet decided to establish a regional hospital in Abbotsford at the existing Ministry of Agriculture, Fisheries and Food site. The Ministry is therefore seeking approval for BCBC to expend $13.6 million for a new facility.

**i) B.C. Hydro—Property taxes**

Currently Hydro's facilities on the lower Columbia and Peace Rivers are fully exempted from property taxes. However, several municipalities near major Hydro facilities have annexed this property to their tax base and are claiming that Hydro must pay property taxes. Full taxation could add over $100 million per year in operating costs.

**j) Provincial emergencies**

The Provincial Emergency Program (PEP) is, on paper, a relatively small program commanding an operating budget of $2.8 million and an additional emergency vote of $0.8 million. In reality, however, this program has expended a far greater amount through Orders-in-Council. PEP has administrative responsibility for the Flood Relief Act, and the last nine floods, since June 1990, have cost the government approximately $75 million through Order-in-Council grants. These events, being natural disasters, are not predictable, but they are costly.

PEP authorities are unable to predict flooding in the province. Strange weather patterns including record rain falls, logging practices which remove the trees and cause increased runoff, and man-made development are cited as some of the reasons for the flooding. In some cases people are building homes in areas particularly prone to flooding.

Estimates of claims arising out of flooding are based on Disaster Assistance Guidelines and include claims from individuals, farmers and small businesses, extraordinary costs for municipalities and ministry costs. The maximum available is 80 per cent of eligible cost or approximately 53 per cent of the value. The ministries must cover their own staffing costs but can receive funds from the Order-in-Council (OIC) for repairs, such as rebuilding or replacing a washed-out bridge. Typically, PEP uses about three quarters of the monies requested in the OIC, although estimates are improving.

Some monies are recoverable from the federal government. The damage amount, however, must exceed a threshold amount of $1 per capita. The

expectation is that the federal government will contribute $10-$15 million for the floods since 1990, although only $2.4 million has been received and another $3 million has been requested.

To date $38.3 million has been committed or spent, and another $18.6 million has been committed. The following exhibit identifies the flood events and the OIC monies apportioned to each.

**Exhibit**
**Flood relief ($ million)**

| Flood Event | OIC Commitment ($ millions) |
|---|---|
| June 1990 | 20 |
| November 1990 | 20 |
| November 1990 | 8 |
| November 1990 | 5 |
| December 1990 | 4 |
| December 1990 | 0.4 |
| February 1991 | 1 |
| June 1991 | 1 |
| August 1991 | 13 |
| October/November 1991 | 2.3 |
| Flood preparation 1991 | 0.7 |

Several issues arise from this scenario. There is no form of risk management in place. There is a federal emergency management program with the government acting as the underwriter. The Insurance Bureau of Canada is looking into this. However, even with such a program, the issue remains as to how the Province could access it. Another issue relates to the ability of ministries to forecast their financial requirements for a particular flood event.

**k) Duke Point development**

The lots in this development have not sold well, and the eventual sale of all lots is expected to take some time. Nevertheless, as the industrial park approaches full capacity, greater sewage treatment capacity may be required. The cost of constructing a major sewage disposal line was estimated to be $4 million in 1990, and it is unclear who will bear this cost. The annual property tax is substantial.

## 6. Past deferral of maintenance expenditures

The prolonged deferral of maintenance expenditures appears relatively frequently within the government. The practice was apparently used during the 1980s to reduce expenditures in enough places to be regarded as fairly common practice. The consequences are serious in that deferred maintenance expenditures may require increased spending levels in the future.

A separate issue report documents instances of deferred maintenance in such ministries as Advanced Education, Government Services, Forests, Municipal Affairs and Tourism. Other significant examples are described below.

### a) B.C. Hydro

From 1983-88, B.C. Hydro cut back on regular preventive maintenance because of severe economic constraint imposed by the shareholder. Management indicates that those levels of maintenance were inadequate. Hydro now plans catch-up maintenance expenditures of $125-$175 million over five years in addition to regular on-going maintenance of $120 million per year.

### b) Road and bridge rehabilitation

The approved funding for highway rehabilitation has typically been less than the budget request. For the current fiscal year, the shortfall was $90 million, for the prior year it was $80 million. If the budget submissions accurately reflect the needed highway reconstruction, some roads will be left to deteriorate, with significant financial consequences later on because reconstruction can cost three times as much as rehabilitation. Bridge maintenance appears to have suffered similar underfunding.

In addition, the cost of retrofitting bridges to current seismic standards (earthquake-proofing) is estimated to add a total of $600 million to the rehabilitation program over a ten year period.

### c) Schools

Capital approvals for maintenance and repairs fluctuated widely during the 1980s. The consequences of these shortfalls are not known in terms of the effect on service life of schools and the size of the lurking expenditure for deferred maintenance. The Ministry of Education is, however, forecasting a need for $1.2 billion over the next five years for significant maintenance/replacement in existing schools, as well as $750 million for seismic upgrading.

## 7. Contingent liabilities and commitments

The issue of contingent liabilities and commitments is addressed as part of the report on Accounting Policies. Contingent liabilities can be defined as existing situations which, upon the occurrence or non-occurrence of a future event, may give rise to a loss. Commitments are contractual obligations or conditional liabilities to outside persons that become liabilities when the terms of existing contracts, agreements or legislation are met. There are a significant number of contingent liabilities and commitments. Examples of two contingent liabilities and commitments which represent potential lurking expenditures for the government are described below.

### a) Vancouver Island natural gas pipeline

Under the terms of an agreement between the federal and provincial governments and Pacific Coast Energy Corporation, the Province is obliged to provide $55 million of conversion grants to assist persons to convert to natural gas, up to $25 million in construction loans to the company, and an additional uncapped amount in loans to the company respecting the stabilization of the consumer price of natural gas which was originally expected to be about $70 million. The conversion grants and construction loans have remained at their original levels, but the obligation under the revenue stabilization fund (RSF) has increased significantly, due in part to escalating construction costs which are currently about $356 million compared to original construction estimates of $250 million, with the prospect of further increases. As a result, the Ministry of Energy, Mines and Petroleum Resources is currently estimating the RSF obligation to be at least $186 million up to the year 2004. The Ministry has also prepared a worst case estimate, based on the least favourable combination of assumptions, which indicates a potential RSF exposure of up to $672 million up to the year 2010. The Ministry considers the probability of this set of circumstances occurring to be low, but the estimate does define the outer limites of the possible financial exposure. Treasury Board's disbursement limit for this twenty-year program is currently set at $70 million. The province's obligation appears to exceed the forecast commitment by at least $116 million.

### b) British Columbia Petroleum Corporation

Through a contractual commitment made in 1980, BCPC is obliged to acquire gas from Pacific Northern Gas and sell it to Ocelot Industries. BCPCs obligation continues until 2002. Should Ocelot Industries be unable to fulfil its contractual obligations, BCPC is liable to pay for transportation costs for Ocelot's minimum annual purchase commitments. These commitments are estimated at $24 million for potentially ten years (or $240 million).

## C. Conclusions and recommendations

The foregoing is a long, but not inclusive list of the issues and trends that we have categorized as lurking expenditures. Some are not large in themselves, but collectively they have a significant impact on the ability of the province to achieve a balanced budget. We have not seen a formal process, if one exists, to accumulate these items and identify the relationships that exist among them.

In our reports on Structure and Process of Financial Management and on Forecasting we comment on the need for a central agency to coordinate the government management process. To be effective, the central agency will require as much lead time as possible to understand the developing trends, issues and cost drivers. Even when these factors are understood and responses developed, it will take some time to organize the agents of government to effect a response. This reality leads us to the following recommendations:

- **Identification**—Each ministry and government agency should be requested to identify the trends and events that could have significant impact on the budget of the province in over five years. The related costs will need to be identified as specifically as possible.

- **Strategy Development**—Ministries should be asked to provide their view on the strategies and options available to the province to respond to these events and trends. For example, a specific study should be initiated by the Ministry of Energy, Mines and Petroleum Resources to evaluate the options available to the Province and prepare a strategy to mitigate the risks and associated costs of the Vancouver Island Gas Pipeline.

- **Coordination of response**—The central planning agency should be charged with the review of the material provided by ministries and agencies with the objective of:

    a) Identifying the impact on different agencies.
    b) Prioritizing the issues and communicating to provincial leadership.
    c) Coordinating the provincial response.
    d) Incorporating the lurking expenditures and the provincial response in the fiscal plans of the Province.
    e) Monitoring the implementation of strategies to avoid or reduce potential costs.

# Appendix A—Criminal Injuries Compensation Board

## A. Description

### 1. Mandate

The Criminal Injuries Compensation program is designed to financially assist victims of criminal acts.

The board grants compensation in the form of lump sum payments and/or periodic awards. The maximum lump sum payment that can be awarded in respect of the injury or death of one victim is $50,000. In many cases, however, this lump sum payment can be supplemented by a periodic award within the limits prescribed by Section 13 of the Act. The board is precluded from awarding compensation where the amount payable is less than $100.

Compensation may be awarded for:

- Expenses actually and reasonably incurred or to be incurred as a result of the victim's injury or death.
- Pecuniary loss or damages incurred by the victim as a result of total or partial disability affecting the victim's capacity for work.
- Pecuniary loss incurred by dependants as a result of the victim's death.
- Maintenance of a child born as a result of rape.
- Replacement or repair of broken or damaged artificial appliance, clothing, eyeglasses, dentures and hearing aids.
- Other pecuniary losses or damages including and reflecting intangible elements such as pain and suffering, loss of amenities, loss of life expectancy, etc. (The board makes reference to court awards and awards granted by other jurisdictions in determining the amount of compensation to be awarded in this latter category.)

Compensation may also be granted for funeral and burial expenses where such expenditures are not provided for under an Act of Canada or the Province. In

addition to the above-noted compensation, the board may also furnish or provide medical, surgical, hospital, nursing and other care or treatment, transportation, medicines, crutches and apparatus, including artificial prostheses and other rehabilitative measures to victims of crime in addition to the other compensation provided by the Act.

## 2. Size of organization

The board employs 21 full-time equivalents, two part-time staff, and one contract staff (the chief physician). Total salary costs are about $1 million.

The size of the organization has been growing dramatically over recent years, to the point that the board now operates over two shifts. Space is so cramped that as described by the Manager, "the office staff play musical chairs". When the day shift ends, a full complement of evening shift claims processors arrive to occupy the same desks and continue claims processing activities.

Currently there is a request for 17 additional FTEs and additional space is being acquired to accommodate the expanding operation.

## 3. Legal basis

The Criminal Injuries Compensation Act has been in effect since July 1, 1972. (Claims for injuries prior to 1972 are ineligible for the program.) It enables compensation to be provided where a person is injured or killed in British Columbia as a result of the commission of any of one of 50 criminal offences set out in the schedule of the Act or where the injury or death resulted while a person was trying to arrest an offender, prevent the commission of a crime or render assistance to a peace officer.

The legislation applies in respect to all persons injured or killed in British Columbia in the above described circumstances notwithstanding that the victims may not have been residents of British Columbia at the time.

The criminal injury Compensation Act of British Columbia is administered by the Worker's Compensation Board of British Columbia for the Ministry of the Solicitor General.

## 4. Subsidiaries

The board has no subsidiaries; it operates, in effect, as a subsidiary of the Workers' Compensation Board of British Columbia.

## 5. Recent history

The following points serve to characterize some of the recent history and trends facing the board.

- An exponential growth in claim volume in concert with a number of staff vacancies; resulting in the current eight-month, 2000-claim backlog.

- A growing community of program advocates and advisors including the recently expanded Victims Assistance Group. This group directly counsels crime victims on the availability and procedures of the program .

- A trend, by government agencies that are themselves operating under fiscal constraints (Social Services, Health, Police, etc.), to regularly refer clients to the program.

- An increasing complexity of cases that are compounded by poverty, unemployment, growing transient populations and other social ills.

- A growing public awareness and openness surrounding domestic violence, and recognition of the eligibility under the program of each family member victimized.

## 6. Reporting and accountability

The Minister responsible for the Criminal Injuries Compensation Act of British Columbia is the Attorney General.

The agency responsible for the administration of the Act is the Workers' Compensation Board of British Columbia.

As a result, the Criminal Injuries Compensation Board operates, de facto, as an extension of the WCB. It's Board of Governors is the same as that of the WCB. Its appeals process and appeal commissioners, again, are those of the WCB. We understand that this is not a legislative requirement in British Columbia, but on a practical basis, is the reporting structure relied on by most criminal injuries compensation boards in Canada.

## 7. Financial controls

The Criminal Injuries Compensation Board, because of its integral affiliation with the WCB, benefits fully from the financial controls established within the WCB's larger administrative and fiscal bureaucracy.

One exception to this is the budgeting process. The costs of the criminal injuries compensation program are seen to be demand-driven and somewhat unpredictable. A response noted that *"It is very difficult to predict how many cases will be accepted and the type of injuries that will be covered...The bulk of the variation in the cost of awards paid to claimants is for pain and suffering."*

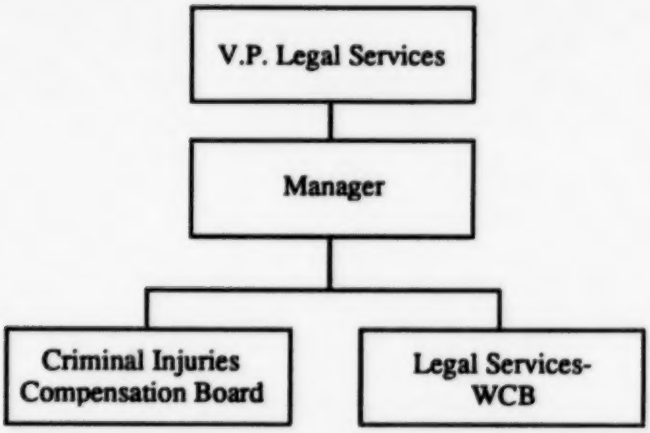
## 8. Management structure and issues

The Criminal Injuries Compensation Board management structure is illustrated in Exhibit I. The program relies fully on the WCB for all administrative support including:

- Financial and accounting services.
- Information technology.
- Human resources.

The Manager position is funded entirely by the WCB budget.

**Exhibit I**
**Organization structure**



## B. Activities and outputs

### 1. Major programs and clients

As indicated in Exhibit II sexual offences were the most common type of crime involved in the program. Of the 2,637 awards granted in 1990, 1,589 or approximately 60 per cent involved sexual offences. These offences include cases involving the sexual abuse of children, in which there has been a further dramatic increase in applications in recent years. The most frequent category of crime was assaults, involving 831 cases. Thus, contrary to common perception, the criminal injuries program addresses few minor assaults—the program responds instead to the growing societal recognition of sexual abuse and sexual assault situations. We understand that a large number of these cases are "adult survivors", that is, those who as adults have acknowledged abusive childhoods. In these cases, the board seeks to find evidence (eg: sibling corroboration or social service agency reports) to help adjudicate a case.

Exhibit III shows the volume of applications and awards granted by the Board over the period 1972 to 1990.

The board has experienced a tremendous increase in claims volume in recent years, with the workload growing by 24 per cent annually in the past three years. 3,345 cases were adjudicated and finalized during the year. Awards were granted in 2,637 of these cases. 441 applicants, for a variety of reasons, were not considered to be entitled to any benefits under the Act and their applications were disallowed. 267 applications were not proceeded with by applicants.

**Exhibit II**
**Crimes involved on awards granted**

| | Number | Percentage |
|---|---|---|
| Breach of duty i.e. Explosives | 1 | 0 |
| Causing bodily harm by explosives substances | 1 | 0 |
| Dangerous use of firearms | 14 | 1 |
| Common nuisance causing harm | 7 | 0 |
| Failure to provide necessaries | 3 | 0 |
| Causing bodily harm by criminal negligence | 7 | 0 |
| Murder | 42 | 2 |
| Manslaughter | 6 | 0 |
| Attempted murder | 28 | 1 |
| Sexual touching of person under 14 | 819 | 31 |
| Invite sexual touching of person under 14 | 6 | 0 |
| Sexual exploitation of young person | 228 | 9 |
| Incest | 4 | 0 |
| Causing bodily harm with intent | 1 | 0 |
| Abduction of person under 14 | 2 | 0 |
| Hostage taking | 6 | 0 |
| Assault causing bodily harm | 1 | 0 |
| Kidnapping | 1 | 0 |
| Assault | 530 | 20 |
| Assault with weapon or causing bodily harm | 242 | 9 |
| Aggravated assault | 57 | 2 |
| Unlawfully causing bodily harm | 2 | 0 |
| Robbery | 74 | 3 |
| Sexual assault | 513 | 20 |
| Sexual assault with weapons, threats to third party or causing bodily harm | 15 | 1 |
| Aggravated sexual assault | 4 | 0 |
| Intimidation by violence | 16 | 1 |
| Arson | 3 | 0 |
| Assisting a peace officer | 1 | 0 |
| Preventing a crime | 2 | 0 |
| | 2,637 | 100 |

**Exhibit III**
**Criminal Injury Compensation Awards 1972-1990**

| | 1972-88 (Average) | 1989 | 1990 |
|---|---|---|---|
| Applications received | 966 | 3,169 | 3,957 |
| Number of awards granted | 675 | 2,501 | 2,637 |
| Awards paid | $232,529 | $8,213,410 | $11,703,884 |
| Average per award | $345 | $3,284 | $4,438 |

Thus, both the volume and average claim payout have increased dramatically in recent years.

Exhibit IV indicates a summary of awards for 1990.

**Exhibit IV**
**Summary of 1990 Awards**

| | |
|---|---|
| Summary of awards: | |
| Number of lump sum awards granted in 1990 | 2,583 |
| Number of periodic awards granted in 1990 | 54 |
| Lump sum payments | $9,464,516 |
| Periodic payments | 2,234,368 |
| | $11,703,884 |

Of significance is the magnitude (fully 20 per cent) of periodic payments. These are ongoing payments of awards granted in prior years that represent a future and growing commitment for upcoming years.

In light of this fiscal issue, we reviewed the "Criminal Injuries Periodic Payments Report", and the the "Criminal Injuries Periodic Payments (Fatal Claims) Report, as at December 31, 1991. We observed that:

- Fully $210,781 per month, or $2.5 million per year is now committed to periodic payments.

- Recently review dates been included that could confirm the necessity of continuing monthly payments. Continuing payments include, for example, $1,073 for a concussion and $680.90 for an upper arm cut. The use of a review date is a major step in helping to ensure that the program assists individuals during the period that they are victimized—

and does not, instead, become an inadvertent substitute for social welfare programs.

We conclude that the obligations embodied within the historic granting of perpetual periodic payments represents an ongoing $2.5 million obligation.

## C. Resource base

The Province is responsible for paying all criminal injuries compensation and costs but, pursuant to a cost-sharing agreement which has been in effect since January 1, 1973, recovers from the government of Canada, except for administration costs, 25 cents per capita of the population of the province, or 50 per cent of the compensation paid, whichever is the lesser. Administration costs are ineligible for cost-sharing.

For the fiscal year ending March 31, 1990 the contribution by the federal government amounted to $763,900 or 25 cents per capita based on Statistics Canada population estimate of British Columbia as of June 1, 1989.

It should be noted that, although there is an elaborate evaluation to determine federal government cost sharing, federal participation is capped at 25 cents per capita and is not indexed.

Our calculations reveal that for the claim year 1988-89 (the most recent year for which we have data), actual compensation paid was $6,320,346; with a population count of 2,984,000, excluding administrative costs, actual program costs were thus $2.12 per capita. Thus, the federal contribution accounted for about 12 per cent of the program benefit costs and none of the administrative costs. As such, the program is indeed the burden of the provincial government and future costs increases will be fully borne by the province.

Another potential revenue source is third party recoveries, that is, the collection of program costs from offenders. It is well recognized that collection success is entirely unlikely; these individuals are themselves unemployed, destitute or incarcerated. In 1990, $149,000 was collected through access to a house insurance policy.

## D. Personnel

There are, in essence, four categories of personnel within the Criminal Injuries Compensation Board:

- Lawyers serve as claim adjusters.
- Clerical staff process claims.

- One physician provides medical advice.
- One manager oversees the program.

The reliance on lawyers as adjudicators has historically been justified on the basis that a financial assessment for a pain and suffering award requires an understanding of legal case history and precedents.

## E. Issues

We highlight six issues that will likely influence the future of the Criminal Injuries Compensation Program.

### 1. Cross subsidization by employers of British Columbia

We have noted that the Criminal Injuries Compensation Board relies heavily on administrative support services offered by the Workers' Compensation Board. For example, the Manager's salary is fully supported by the WCB. All administrative support including finance, personnel, information systems, rehabilitation, physicians, occupational therapists, and occupancy costs are supplied entirely by the Workers' Compensation Board.

The Criminal Injuries Compensation Board makes payments of $5,760 per month for the above noted services. It is recognized that this payment may be significantly underestimated.

This is of critical significance not only with respect to the disparity of funds, but more importantly, with respect to the issue of cross-subsidization. All workers' compensation costs are funded entirely by the employers of British Columbia. These private sector funds could be subsidizing the costs of the Criminal Injuries Program—a wholly government-supported program. In a time when increased competitiveness is required of Canadian companies, this subsidization would serve to inappropriately burden employers with costs legislatively required to be supported by public sector funds. The Criminal Injuries Board is now in the process of addressing this issue.

### 2. Demand for program retroactivity to pre-1972

Currently the Criminal Injuries Compensation Act covers criminal acts that occurred after 1972, the date of inception of the Act. We understand that there is movement, particularly among women's advocacy groups, to retroactively receive benefits under this program. This retroactivity would have significant cost implications. Furthermore the difficulty in acquiring satisfactory evidence for criminal acts that occurred some twenty years ago would further complicate the

program. For these reasons, the Criminal Injuries Board has been successful in maintaining the 1972 effective date.

### 3. Continued exponential growth in the program dimensions

The current legislative, practice and policy framework for the Criminal Injuries Program provides little in the way of program boundaries. We suspect that with increasing social challenges, such as poverty and unemployment, the demand for this program will continue to increase. In addition, claims will undoubtedly become more complex and will include such disorders as post traumatic stress syndrome and others which are psychological or medically complex. This will serve to fuel the financial demands on the program as well as its overall complexity.

### 4. Recent legislation will cause increases in cost

In October 1990, the Criminal Injuries Compensation Act was amended to increase the maximum lump sum payment from $25,000 to $50,000. The budgetary impact of this decision is only now beginning to be felt. The doubling of the payment ceiling will contribute to a significant increase in program costs.

### 5. Hallmark legal decisions may influence the scope of the program

We understand that a number of hallmark legal decisions are pending that could substantially impact the dimensions of programs. In particular, the potential categorization of the conscious transmission of the HIV virus as an "assault" may serve to further complicate and expand the scope of the program.

## F. Accounting adjustments

We suggest that a half million dollar current year adjustment and prior year adjustments for the year 1986-1990, may be required to reflect the proper allocation of Criminal Injury costs that have historically been absorbed by the Workers' Compensation Board of British Columbia.

## G. Implications for government

The Criminal Injuries Compensation Act presents a number of implications for government which also affect the Workers' Compensation Board of British Columbia.

- It will be difficult for the new government to continue to expand the breadth and volume of the Criminal Injuries Compensation Board without major infusions of new funds.

- The program as currently structured is fairly liberal, offering significant pain and suffering awards. Efforts to narrow the scope of the program or otherwise impose boundaries to meet fiscal challenges could be seen as regressive.

- We understand that for the most part, the employers of British Columbia are unaware that their assessments paid to the Workers' Compensation Board are, to some extent, being channelled to the Criminal Injuries Compensation Board.

- We suspect that this government will continue to show sensitivity to emerging groups such as women's advocacy groups, battered women's associations, poverty assistance groups, etc. It may continue to be difficult to separate the role of the Criminal Injuries Compensation Program from the role of other social service assistance programs.